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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,139	10/25/2000	Paul D. Marko	40557	3434

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EXAMINER

SOBUTKA, PHILIP

ART UNIT	PAPER NUMBER
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2684

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DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/695,139

Applicant(s)

MARKO ET AL.

Examiner

Philip J. Sobutka

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-7, 11, 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 8, 9, 12 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. Claims 1,2,8,9,12,13 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakatsuyama (US 6,658,062).

Consider claim 8. Nakatsuyama teaches a digital broadcast receiver comprising a memory device for storing content (Nakatsuyama see fig 2 item 68, col 7, lines 18-38, col 7, line 65 – col 8, line 8), the content comprising on demand data files, the on demand data files being portioned into segments interspersed in a broadcast signal ( col 5, line 64 – col 6, line 24), the broadcast signal being provided with at least one header comprising file identification codes to identify each file being transmitted and segment info (Nakatsuyama, col 9, lines 10-45, col 10, lines 25-47), the memory also storing file id codes of selected data (Nakatsuyama see especially col 9, lines 40-45); a reception device for receiving the broadcast signal (Nakatsuyama see especially fig 2, item 56 col 6, lines 50-64) and a processing device connected to the memory device to process the received signal and to store the segments of the selected on demand data files in the memory ((Nakatsuyama see especially fig 1, item 50, col 6, lines 50-64). Note that Nakatsuyama receives segment data based on number of segments in a string and segment identifiers in each data string (Nakatsuyama see especially col 10, lines 26-35, fig 4C).

As to claim 1, the apparatus of Nakatsuyama would perform the claimed steps.

As to claims 2,9, note that Nakatsuyama's processor of course would monitor progress storing segment information (Nakatsuyama see especially col 10, lines 15-45).

As to claim 12, note that Nakatsuyama's device is provided with rebroadcast data and automatically receives remaining segments (Nakatsuyama see especially col 9, line 65 – col 10, line 46).

As to claim 13, note that the data comprises time (which would of course indicate a date), and a channel (Nakatsuyama see especially col 13, line 62- col 14, lines 20).

***Allowable Subject Matter***

2. Claims 4-7, 10, 11,14,15 are allowed.
3. Claims are allowed for the reasons presented in the previous office action.

***Response to Arguments***

4. Applicant's arguments filed March 22, 2004 have been fully considered but they are not persuasive.

Applicant's arguments are not persuasive, since Nakatsuyama teaches an embodiment that uses numbered segments.

***Conclusion***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Sobutka whose telephone number is 703-305-4825. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Philip Sobutka

Pjs  
May 25, 2004

  
**NAY MAUNG**  
**SUPERVISORY PATENT EXAMINER**